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March 25, 2022

Via ECF

MEMO ENDORSED.

The Honorable Ona T. Wang
United States District Court for the
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: Massey v. Smart, Case No. 20 CV 9719 (DLC)(OTW)

Dear Magistrate Judge Wang:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel of the City of New York, the Honorable Sylvia O. Hinds-Radix, attorney for the Defendant Captain Smart in the above-referenced action. I write to respectfully request a 30-day extension of the time by which discovery must be concluded and a similar adjournment of the March 29, 2022 status conference in this action.

Due to ongoing confusion at the New York City Law Department regarding the assignment of this action to a line attorney after I returned from an extended period of leave, the parties have fallen behind in the conduct of fact discovery. Defendant did not timely serve her initial interrogatories and requests for production, and Defendant did not file a joint letter on March 23, 2022, regarding the status of discovery. (ECF No. 40.) I also have not received any discovery demands or documents from Plaintiff to date. But the aforementioned confusion has now been conclusively resolved; I alone will handle this action going forward, and I sincerely apologize to the Court and to Plaintiff for the delay caused by my office. To that end, I have served Plaintiff today with initial interrogatories and requests for production and going forward will make all efforts to move discovery along expeditiously. I have also served an initial production of documents to Plaintiff.

In light of the delays in fact discovery, I respectfully request a 30-day extension of the time of all deadlines for discovery in this action so that discovery may continue apace. In

the same vein, I respectfully request an adjournment of the status conference currently scheduled for March 29, 2022, at 4 p.m. so that a more fruitful discussion can be held with the parties who, at a later date, will have proceeded further in the discovery process.

A 30-day extension¹ of all discovery deadlines will result in the following schedule:

<u>Task</u>	<u>Current Deadline</u>	<u>Requested Deadline</u>
Fact Discovery shall be completed by	June 2, 2022	July 5, 2022
Initial interrogatories shall be served by	March 2, 2022	April 1, 2022
Initial requests for production shall be served by	March 2, 2022	April 1, 2022
Responses to initial requests for production shall be served by	April 2, 2022	May 2, 2022
Requests for admission shall be served by	May 2, 2022	June 1, 2022
Depositions shall be completed by	May 2, 2022	June 1, 2022
A joint letter informing the Court about the status of discovery shall be filed with the Court by Defendant by	March 23, 2022	April 22, 2022
Status Conference with the parties	March 29, 2022, at 4 p.m.	The week of April 25, 2022 ²

¹ Where a 30-day extension results in the new deadline falling on a weekend or holiday, I have extended the deadline to the following business day, consistent with Rule 6 of the Federal Rules of Civil Procedure.

² I am unavailable on April 25, 2022, from 11 a.m. to 12 p.m.

This is the Defendant's first request for an extension of time to complete discovery and for an adjournment of the status conference. I have been unable to obtain Plaintiff's consent to this application due to his incarceration, and the fact that he is proceeding *pro se*.

I thank the Court for its consideration of this application and apologize again for the delay occasioned by my office.

Respectfully yours,

/s/ David S. Thayer

David S. Thayer



cc: ***Via First-Class Mail***
Tyrone Massey
NYSID: 01083103M
B&C No. 8952000522
16-06 Hazen Street
E. Elmhurst, NY 11370
Plaintiff pro se

Defendant's requests for an extension of all discovery deadlines and for an adjournment of the March 29, 2022 telephonic status conference are **DENIED**.

Defendant's counsel is directed to take all necessary steps for *pro se* Plaintiff to be produced at the March 29th, 2022 telephonic status conference, at which time the parties are expected to meet and confer on the requested adjournment and discovery extensions. See ECF 40 ("The Warden or other official in charge of the Anna M. Kross Correctional Facility (AMKC), or other facility in custody of Tyrone H. Massey (No. 8952000522), is ordered to produce Tyrone H. Massey to an office in the facility with a reasonable degree of privacy to enable him to participate in a court conference through means of a teleconference from the facility to the United States Courthouse, Southern District of New York, on March 29, 2022 at 4:00 p.m. until completion.").

SO ORDERED.



Ona T. Wang 3/28/22
U.S.M.J.